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No. 06-111

In the Supreme Court of the United States

WILLIAM A. ELLIS, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

PAUL D. CLEMENT
Solicitor General
Counsel of Record
Department of Justice
Washington, D.C. 20530-0001
(202) 514-2217

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Petitioner contends that, on review pursuant to *United States* v. *Booker*, 543 U.S. 220 (2005), a federal court of appeals should not treat a sentence within the advisory Sentencing Guidelines range as presumptively reasonable. A number of petitions for a writ of certiorari have recently been filed challenging the application of a presumption that sentences within a properly calculated advisory Guidelines range are reasonable on appellate review. As the government has explained in briefs in opposition to those petitions, according a Guidelines sentence a presumption of reasonableness is consistent with *Booker* and with the Sentencing Reform Act of 1984, 18 U.S.C. 3551 *et seq.*, and does not make the Guidelines effectively mandatory; it is not clear that reasonableness review is materially different in circuits that have adopted the presumption than in those that

have not; and petitions raising presumption-of-reasonableness challenges need not be held pending the disposition of *Cunningham* v. *California*, No. 05-6551, cert. granted (Feb. 21, 2006). See, *e.g.*, Gov't Br. in Opp. at 7-15, *Guzman-Balbuena* v. *United States*, No. 05-10634, 2006 WL 2089475 (filed June 29, 2006); Gov't Br. in Opp. at 13-21, *Artis* v. *United States*, No. 05-10431, 2006 WL 1733084 (filed June 19, 2006). Accordingly, for the reasons set out in the briefs in opposition to those petitions, the petition for a writ of certiorari should be denied.*

PAUL D. CLEMENT
Solicitor General

AUGUST 2006

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* The government waives any further response to the petition unless this Court requests otherwise.